

RECEIVED

JUN 1 - 1998

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re)
)
JOSEPH FRANK PTAK)
San Marcos, Texas)
)
Order to Show Cause Why a)
Cease and Desist Order Should Not Be Issued)

DOCKET FILE COPY ORIGINAL

CIB Docket No. 98-44

To: Richard L. Sippel
Administrative Law Judge

COMPLIANCE AND INFORMATION BUREAU'S
OBJECTIONS TO HAYS COUNTY GUARDIAN'S
REQUEST FOR ADMISSION OF FACTS AND GENUINENESS OF DOCUMENTS

1. On May 26, 1998, the Hays County Guardian filed a pleading styled "Hays County Guardian's Request for Admission of Facts and Genuineness of Documents" ("Request"). For the reasons that follow, the Chief, Compliance and Information Bureau ("CIB"), pursuant to Section 1.246 of the Commission's Rules, objects to the Request.

2. Section 1.246 of the Commission's Rules provides in pertinent part that:

"(a) Within 20 days after the time for filing a notice of appearance has expired; . . . a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents . . . or of the truth of any relevant matters of fact

(b) Each of the matters . . . shall be deemed admitted unless, . . . the party to whom the request is directed services upon the party requesting the admission either: . . . (2) written objections . . . that the request is otherwise improper in whole or in part

No. of Copies rec'd
List ABCDE

OSL

3. The *Order to Show Cause and Notice of Opportunity for Hearing*, FCC 98-60, released April 6, 1998 ("*Show Cause Order*"), commencing this proceeding provided in paragraph 11 that the notice of appearance for Joseph Frank Ptak ("Ptak") was to be filed within 20 days of the mailing of the *Show Cause Order*. Commission records reflect that the *Show Cause Order* was mailed on April 8, 1998. Thus, the notice of appearance was due no later than April 28. Absent approval by the presiding judge of an appropriate motion or of his giving notice, any requests for admissions had to have been served by May 18. Because the Request's certificate of service reflects that the Request was not even mailed until May 20, it is late-served and therefore objectionable.

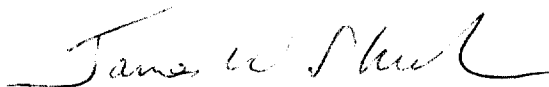
4. In addition to being late-served, the Request is inappropriate in that it was sent by a non-party. Other than the Bureau, the only party in this proceeding at present is Ptak. The Hays County Guardian is not a party and has no right to serve upon the Bureau a request for admission of facts and genuineness of documents.

5. Accordingly, the Bureau objects to the Request in whole.

Respectfully submitted,
Richard Lee
Chief, Compliance and Information Bureau



Pamera D. Hairston
Chief, Compliance Division



James W. Shook



W. Riley Hollingsworth
Attorneys

Federal Communications Commission
2025 M Street, N.W., Suite 8210
Washington, D.C. 20554
(202) 418-1430

June 1, 1998

CERTIFICATE OF SERVICE

I, CurTrisha Banks, certify that I have, on this 1st day of June, 1998, sent by regular United States mail, a copy of the foregoing, "Compliance and Information Bureau's Objection to Hays County Guardian's Request for Admission of Facts and Genuineness of Documents" to:

Joseph Frank Ptak
505 Patricia Drive
San Marcos, Texas 78666

Hays County Guardian
P.O. Box 305
San Marcos, Texas 78667

Administrative Law Judge Richard L. Sippel
Federal Communications Commission
2000 L Street, N.W., Suite 218
Washington, D.C. 20554


CurTrisha Banks